

Introduction

MEMORANDUM

April 11, 2011

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney 

SUBJECT: Introduction – Zoning Text Amendment 11-01,
Commercial/Residential Zones – Neighborhood and Town Zones

Zoning Text Amendment (ZTA) 11-01, sponsored by Council President Ervin at the request of the Planning Board, is scheduled for introduction on April 12, 2011.¹ A public hearing on ZTA 11-01 will be scheduled for May 17, 2011 at 7:30 p.m.

After the PHED committee worksessions on the Kensington Sector Plan in March of 2010, Planning Board Staff was directed to evaluate the appropriateness of the Commercial/Residential (CR) zones for lower density areas with smaller properties, diverse ownership patterns, and detached-house residential neighborhoods in close proximity. The Planning Board and Planning Staff considered this question in the context of the Takoma/Langley Crossroads and Wheaton Sector Plans.

In the opinion of the Planning Board, ZTA 11-01 has 3 functions:

- (1) create a new CRN (Neighborhood) zone;
- (2) create a new CRT (Town) zone; and
- (3) enact a variety of amendments to the CR zones, some related to the integration of the new CRN and CRT zones, and some representing improvements and clarifications resulting from experience with the CR zones since their adoption.

ZTA 11-01 includes numerous amended provisions. The Planning Board's transmittal letter, dated March 11, 2011 does an excellent job of detailing the substantives changes in ZTA 11-01 and explaining the Planning Board's rationale for the proposed changes. The following highlights significant elements of ZTA 11-01.

¹ The ZTA being introduced is not exactly the same as the ZTA transmitted by the Planning Board. The technical recommendations of the ZTA Advisers are reflected in ZTA 11-01. In particular, the introduced amendment clarifies the Planning Board's intent with regard to sketch plan amendments. Planning Department Staff reviewed and did not object to these changes.

New Zoning Classifications

The Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) zones were developed for areas where there are smaller properties, lower densities, and more challenging economic conditions. The new zones are structured like the current CR zone; the total floor area ratio (FAR), the residential FAR, the non-residential FAR, and the maximum building height are identified with each zone. The Planning Board believes that two new zoning classifications are necessary. One zoning series is needed for areas where existing commercial zones are located next to single-family residential neighborhoods. Another zoning series is needed for areas where requiring too many public benefits might impede redevelopment. The allowed land uses and development standards vary with each zone. The CRN zone would have the most limited land uses of the 3 CR zones. Optional method development is not allowed in CRN zones.

Public Use Space

Public use space would be modified. Standard method development on small lots would have no open space requirement. Standard method development on medium lots would have a 10 percent open space requirement. Standard method development on large lots would have a 10 percent requirement based on the limits of disturbance for each site plan rather than for the entire tract at once. The optional method development open space requirement would remain unchanged.

Land Use

ZTA 11-01 would change the table of permitted uses to add a new element: any development that proposes a use designated as “L” for “limited” in the use table will require a site plan. The new concept of “limited” uses establishes a third use category. Currently, uses are “permitted” as-of-right or by “special exception”. Uses would be categorized as Limited when they have potential adverse effects that may require the kind of individualized mitigation that site plan review can provide (visual and noise buffering, setbacks, careful location of parking) but where the burdens of special exception approval outweigh the benefits. Site plan approval would also be required for development larger than 10,000 square feet of gross floor area or for a building higher than 40 feet. Master plan and design guideline consistency would still be required for all site plans. The ZTA recommends adding a phrase identical to a phrase in the subdivision regulations to allow the Planning Board to find that events have changed to render the master plan recommendations no longer appropriate.

Transit Proximity

A change is proposed to “Transit Proximity” to require a transit station or stop to at least be in the relevant Capital Improvement Program (“CIP”) to be considered “planned”. If it is “planned”, a nearby property owner would qualify for reduced parking and incentive density. ZTA 11-01 would clarify the Planning Board’s discretion in approving amendments to approved sketch plans.

Public Benefits

Public benefits would use a point system instead of a percentage system. The minimum percentage of a public benefit category would be replaced with a requirement for benefits from 4 out of 6 categories. The “major master plan facility” category of public benefits would be modified. The Planning Board would be allowed to grant incentive density for land, construction, or financing of a major facility that has not been recommended in a master plan. The Board must find that the proposed facility is similar to the type of facility that master plans typically recommend and would provide at least as valuable a public benefit.

Sketch Plan Amendments

The Planning Board proposed language in their original submission to the Council to clarify their interpretation of the current Ordinance. The Board relied on the current language in its recent sketch plans approvals. The Planning Board Chair indicated that she is satisfied with the current text without any change.

This Packet Contains

ZTA 11-01

Planning Board Transmittal Letter

© number

1 – 49

50 – 57

Zoning Text Amendment No: 11-01
Concerning: Commercial/Residential
 zones – Neighborhood
 and Town zones
Draft No. & Date: 2 – 4/7/11
Introduced: April 12, 2011
Public Hearing:
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President Ervin at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- **establish** the Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) zones; and
- generally amend the Commercial/Residential zones.

By **amending** the following Division to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-15 “COMMERCIAL/RESIDENTIAL [(CR)] ZONES”

EXPLANATION: <i>Boldface indicates a heading or a defined term.</i> <i><u>Underlining</u> indicates text that is added to existing laws by the original text amendment.</i> <i>[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.</i> <i><u>Double underlining</u> indicates text that is added to the text amendment by amendment.</i> <i>[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.</i> <i>* * * indicates existing law unaffected by the text amendment.</i>
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ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-C-15 is amended as follows:

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DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL [(CR)] ZONES

59-C-15.1. Zones established.

59-C-15.11. [The Commercial/Residential (CR) zones are established as combinations of a sequence of 4 factors: maximum total floor area ratio (FAR), maximum non-residential FAR, maximum residential FAR, and maximum building height.]

(a) There are 3 commercial/residential classifications with variable uses, density and height limits, general requirements, development standards, and public benefit requirements to respond to different settings. These zone classifications are:

(1) CR Neighborhood (CRN);

(2) CR Town (CRT); and

(3) CR (CR).

(b) [These zones are identified by] Each CRN, CRT, or CR zone classification is followed by a number and a sequence of 3 additional symbols: [CR,] C, R, and H, each followed by a number where:

[(a)](1) the number following the [symbol “CR”-] CRN, CRT, or CR is the maximum total FAR;

[(b)](2) the number following the [symbol] “C” is the maximum non-residential FAR;

[(c)](3) the number following the [symbol] “R” is the maximum residential FAR; and

[(d)](4) the number following the [symbol] “H” is the maximum building height in feet.

(c) The Commercial/Residential zones must be applied on the zoning map that will show, for each property classified:

(1) the commercial/residential classification; and

(2) the 4 standards (total, non-residential, and residential densities and building height).

(d) This Division uses examples and illustrations to demonstrate the intent of the CR zones. [The] These examples [in this Division] and illustrations do not add, delete, or modify any provision of this Division. [Examples are provided only to demonstrate particular applications of the provisions in the Division. Examples are not intended to limit the provisions.]

59-C-15.12. Density and height allocation.

59-C-15.121. Density and height limits.

(a) Each unique sequence of CRN, CRT, or CR, and C, R, and H is established as a zone under the following limits:

<u>Category</u>	<u>Maximum Total FAR</u>	<u>Maximum C or R FAR</u>	<u>Maximum H</u>
<u>CRN</u>	<u>0.5 to 1.5</u>	<u>0.25 to 1.5</u>	<u>40 to 65</u>
<u>CRT</u>	<u>0.5 to 4.0</u>	<u>0.25 to 3.5</u>	<u>40 to 150</u>
<u>CR</u>	<u>0.5 to 8.0</u>	<u>0.25 to 7.5</u>	<u>40 to 300</u>

(b) Zones may be established and mapped at densities in increments of 0.25 and heights in increments of 5 feet within the ranges indicated in the table.

Example: Under the provisions of Sections (a) and (b) above, the CRN zones may establish maximum total densities of 0.5, 0.75, 1.0, 1.25, or 1.5 FAR and maximum heights of 40, 45, 50, 55, 60, or 65. The range of densities and heights from which the various CRN zones can be established and mapped provides guidance to the Planning Board's recommendation and to the Council when

applying a particular zone. Once the zone is approved on a zoning map, it allows a developer to build at any height and density up to the maximum. For example, a property owner whose land is zoned at CRN1.0 C0.5 R1.0 H45 could elect to build at a 1.0 FAR with a height of 35 feet or 0.75 FAR and 42 feet or any other combination up to 1.0 FAR and 45 feet.

- [(a) the maximum total FAR must be established as an increment of 0.25 from 0.5 up to 8.0;
- (b) the maximum non-residential and residential FAR must be established as an increment of 0.25 from 0.25 up to 7.5; and
- (c) the maximum height must be established as an increment of 5 feet up to 100 feet and an increment of 10 feet from 100 feet up to 300 feet.]

[59-C-15.121]59-C-15.122. Density averaging.

Permitted density may be averaged over 2 or more directly abutting or confronting lots or parcels in one or more CRN, CRT, or CR zones, provided that:

- (a) the lots or parcels are subject to the same site plan or sketch plan;
- (b) the lots or parcels are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved sketch plan;
- (c) the maximum total [density and], non-residential and residential density limits apply to the entire development, not to individual lots or parcels;
- (d) no building may exceed the maximum height set by the zone;
- (e) [public benefits must be provided under the phasing element of an approved sketch plan] uses are subject to the provisions of the zone classification;
- (f) the total allowed maximum density [of] on a lot or parcel [zoned CR] that is adjacent to or confronting [one-family residentially zoned or agriculturally zoned lots or parcels] a lot or parcel in a one-family residential zone or an

agricultural zone may not [be exceeded] exceed that allowed by the lot or parcel's commercial/residential zone; and

- (g) [the resulting development must conform to the design and land use objectives of the applicable master or sector plan and design guidelines.] public benefits must be provided under the phasing element of an approved sketch plan.

59-C-15.13. Applicability.

The CRN, CRT, and CR zones can only be applied when specifically recommended by an approved and adopted master or sector plan and only by [the] sectional map amendment [process].

Examples:

- An area zoned [CR-2.0] CRN1.5, C1.0, R1.0, [H80] H45 allows a total FAR [of 2.0] up to 1.5, with maximum non-residential and residential FARs of 1.0, thereby requiring [an equal] a mix of uses to obtain the total FAR allowed. The height for any building in this zone is limited to [80] 45 feet.
- An area zoned CR[-]6.0, C3.0, R5.0, H200 allows [a residential FAR of up to 5.0,] a non-residential FAR [of] up to 3.0, a residential FAR up to 5.0, and a mix of the two uses could yield a total FAR of 6.0. This combination allows for flexibility in the market and shifts in the surrounding context. The height for any building in this zone is limited to 200 feet.
- An area zoned [CR-4.0] CRT3.5, [C4.0] C3.5, [R4.0] R3.5, [H160] H100 allows complete flexibility in the mix of uses, including buildings with no mix, because the maximum allowed non-residential and residential FARs are both equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to [160] 100 feet.

59-C-15.2. Description and objectives of the CR zones.

The CRN, CRT, and CR zones permit a mix of residential and non-residential uses at varying densities and heights. The zones promote economically, environmentally, and socially sustainable development patterns where people can live, work, recreate, and have access to services and amenities while minimizing the need for automobile use. The application of the CR zones is appropriate where

ecological impacts can be moderated by co-locating housing, jobs, and services.

The objectives of the CRN, CRT, and CR zones are to:

- (a) implement the policy recommendations of applicable master and sector plans;
- (b) target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses;
- (c) reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities;
- (d) allow a mix of uses, densities, and building heights appropriate to various contexts to ensure compatible relationships with adjoining neighborhoods;
- (e) [encourage] allow an appropriate balance of employment and housing opportunities [and compatible relationships with adjoining neighborhoods;
- (e) establish the maximum density and building height for each zone, while retaining appropriate development flexibility within those limits]; and
- (f) standardize optional method development by establishing minimum requirements for the provision of [the] public benefits that will support and accommodate density above the standard method limit.

59-C-15.3. Definitions specific to the CR zones.

The following words and phrases, as used in this Division, have the meaning indicated. The definitions in Division 59-A-2 otherwise apply.

Car share space: a parking space that serves as the location of an in-service vehicle used by a vehicle-sharing service.

Cultural institutions: public or private institutions or businesses including: art, music, and photographic studios; auditoriums or convention halls; libraries and

museums; recreational, performance, or entertainment establishments,
commercial; theater, indoor; theater, legitimate.

Day care facilities and centers: facilities and centers that provide daytime care for children and/or adults, including: child daycare facility (family day care, group day care, child day care center); daycare facility for not more than 4 senior adults and persons with disabilities; and day care facility for senior adults and persons with disabilities.

Frontage: a property line shared with an existing or master-planned public or private road, street, highway, or alley right-of-way or easement boundary.

Limits of Disturbance: an area on a certified site plan within which all construction work must occur.

Live/Work unit: Buildings or spaces within buildings that are used jointly for non-residential and residential purposes [where the residential use of the space may be secondary or accessory to the primary use as a place of work].

Manufacturing and production, artisan: The manufacture and production of commercial goods by a skilled manual worker or craftsman, such as jewelry, metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food products.

Public Arts Trust Steering Committee: A committee of the Arts and Humanities Council that allocates funds from the Public Arts Trust.

Public owned or operated uses: Activities that are located on land owned by or leased and developed or operated by a local, county, state, or federal body or agency.

Recreational facilities, participatory: Facilities used for sports or recreation.

Reconstruction: Building the same or less floor area on or within the footprint of a demolished or partially demolished building.

Renovation: An interior or exterior alteration that does not affect a building's footprint.

Seasonal Outdoor Sales: A lot or parcel where a use or product is offered annually for a limited period of time during the same calendar period each year. The availability or demand for the use or product is related to the calendar period, such as Christmas trees, pumpkin patches, or corn mazes.

Tenant Footprint: The horizontal area measured within the exterior walls for the ground floor of the main structure allocated to each non-residential tenant or owner-occupant.

Transit proximity: Transit proximity is categorized in two levels: 1. proximity to an existing or planned Metrorail Station; 2. proximity to an existing or planned station or stop along a rail or bus line with a dedicated, fixed path. All distances for transit proximity are measured from the nearest transit station entrance or bus stop. To qualify as a planned station or stop, the station or stop must have funds appropriated in the relevant Capital Improvement Program.

59-C-15.4. Methods of development and approval procedures.

[Two methods of development are available under the CR zones] The CRN zones allow development only under the standard method. The CRT and CR zones allow development under the standard method and may allow development under the optional method.

59-C-15.41. Standard Method.

Standard method development [must comply with the general requirements and development standards of the CR zones] is allowed under the following requirements.

(a) In the CRN zones, the maximum total, non-residential, and residential densities and maximum building height for any property are shown on the zoning map.

(b) In the CRT and CR zones, the maximum standard method density is the lesser of the density shown on the zoning map or:

<u>Category</u>	<u>Maximum Total Density</u>
<u>CRT</u>	<u>The greater of 1.0 FAR or 10,000 gross square feet of floor area.</u>
<u>CR</u>	<u>The greater of 0.5 FAR or 10,000 gross square feet of floor area.</u>

(c) A site plan approval under Division 59-D-3 is required for a standard method development [project] only if the development:

[(a)](1) is a Limited Use;

(2) [the] includes a gross floor area [exceeds] exceeding 10,000 square feet;
[or]

(3) includes a building height exceeding 40 feet; or

[(b)](4) [any building or group of buildings contains] includes 10 or more dwelling units.

59-C-15.42. Optional method.

Optional method development [must comply with the general requirements and development standards of the CR zones and must provide public benefits under Section 59-C-15.8 to obtain greater density and height than allowed under the standard method of development. A sketch plan and site plan are required for any development using the optional method. A sketch plan must be filed under the provisions below; a site plan must be filed under Division 59-D-3. Any required preliminary subdivision plan must not be submitted before a sketch plan is submitted] is allowed under the following requirements.

- 205 (a) The maximum total, non-residential, and residential densities and building
- 206 height for any property are set by the zone shown on the zoning map.
- 207 (b) A sketch plan must be submitted under Section 59-C-15.43.
- 208 (c) Site plan(s) must be submitted under Division 59-D-3.
- 209 (d) Public benefits must be provided under Section 59-C-15.8.

210 **59-C-15.43. Sketch plan.**

211 Any optional method development in the CRT and CR zones requires an approved

212 sketch plan. Any required preliminary plan of subdivision or site plan may not be

213 submitted before a sketch plan has been approved.

- 214 (a) A sketch plan application must contain:
 - 215 (1) a justification statement that addresses how the project meets the
 - 216 requirements and standards of this Division [for optional method
 - 217 development] and describes how the development will further the
 - 218 objectives of the applicable master or sector plan;
 - 219 (2) [an] illustrative [plan] plans [or model that shows] showing:
 - 220 (A) [the maximum densities for residential and non-residential
 - 221 uses, massing, and heights of buildings] building densities, massing,
 - 222 heights, and the anticipated mix of uses;
 - 223 (B) locations of public use and other open spaces;
 - 224 (C) pedestrian, bicycle, and vehicular circulation, parking, and
 - 225 loading; and
 - 226 (D) [the] relationships between existing or proposed adjacent
 - 227 buildings [on adjoining tracts] and rights-of-way;
 - 228 (3) [an illustrative diagram of proposed vehicular, pedestrian, and bicycle
 - 229 access, circulation, parking, and loading areas;

(4)] a table of proposed public benefits and the incentive density requested for each; and

~~[(5)]~~(4) [the] a general phasing outline of structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.

(b) Procedure for a sketch plan:

(1) Before filing a sketch plan application, an applicant must comply with the provisions of the Manual for Development Review Procedures, as amended, that concern the following:

(A) notice;

(B) posting the site of the application submittal; and

(C) holding a pre-submittal meeting.

(2) A public hearing must be held by the Planning Board on each sketch plan application no later than 90 days after the filing of an optional method development application, unless a request to extend this period is requested by the applicant, Planning Board staff, or other interested parties. A request for an extension must be granted if the Planning Board finds it not to constitute prejudice or undue hardship on any interested party. A recommendation regarding any request for extension must be acted upon [as a consent agenda item] by the Planning Board on or before the 90-day hearing period expires. Notice of the extension request and recommendation by Staff must be posted no fewer than 10 days before the item's agenda date.

(3) No fewer than 10 days before the public hearing on a sketch plan, Planning Board staff must submit its analysis of the application, including its findings, comments, and recommendations with respect

to the requirements and standards of this division and any other matters that may assist the Planning Board in reaching its decision on the application. This staff report must be included in the record of the public hearing.

- (4) The Planning Board must act within 30 days after the close of the record of the public hearing, by majority vote of those present and voting based upon the hearing record, to:

- (A) approve;
- (B) approve subject to modifications, conditions, or binding elements; or
- (C) disapprove.

- (c) In approving a sketch plan, the Planning Board must find that the following elements are appropriate in concept and appropriate for further detailed review at site plan. The sketch plan must:

- (1) [The plan: (A) meets the] meet objectives, general requirements, and standards of this Division;
- (2) [(B) will further] further the recommendations and objectives of the applicable master or sector plan; [and (C) will provide more efficient and effective development of the site than the standard method of development;]
- [(2)][(3)] [The proposed building massing and height and public use and other open spaces are located and scaled to achieve] achieve compatible internal and external relationships [with each other and with] between existing and proposed nearby buildings, [and] open space [adjacent to the site and with adjacent communities] , and uses;

~~[(3)](4)~~ [The] provide satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading [areas are adequate, safe, and efficient];

~~[(4)](5)~~ [The proposed] propose an outline of public benefits [and associated] that supports the requested incentive density [will further the objectives of the applicable master or sector plan and the objectives of the CR zones]; and

~~[(5)](6)~~ [The general] establish a feasible and appropriate provisional phasing [of] plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site [plans is feasible and appropriate to the scale and characteristics of the project] plan applications.

(d) During site plan review, the Planning Board may approve modifications to the binding elements or conditions of an approved sketch plan.

(1) If changes to a sketch plan are requested by the applicant, notice of the site plan application must identify those changes requested. The applicant has the burden of persuading the Planning Board that such changes should be approved.

(2) If changes are recommended after the application is made, notice of the site plan hearing must identify changes requested.

(3) In acting to approve a sketch plan modification as part of site plan review, the Planning Board must make the findings required in Section 59-C-15.42 (c) in addition to those required by Section 59-D-3.

59-C-15.5. Land uses.

No use is allowed in the CRN, CRT, or CR zones except as indicated below:

- 307 - *Permitted Uses* are designated by the letter “P” and are permitted
 308 subject to all applicable regulations.
- 309 - *Limited Uses* are designated by the letter “L” and are permitted
 310 subject to all applicable regulations and the additional restrictions
 311 under Section 59-C-15.51.
- 312 - *Special Exception Uses* are designated by the letters “SE” and may be
 313 authorized as special exceptions under Article 59-G.

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Use	CRN	CRT	CR
(a) Agricultural			
Farm and country markets	<u>L</u>	<u>P</u>	P
Farm, limited to crops, vegetables, herbs, and ornamental plants	<u>P</u>	<u>P</u>	P
Nursery, horticultural – retail or wholesale		<u>P</u>	P
Seasonal outdoor sales	<u>P</u>	<u>P</u>	P
(b) Residential			
Dwellings	<u>P</u>	<u>P</u>	P
Group homes, small [or large]	<u>P</u>	<u>P</u>	P
Group homes, large	<u>L</u>	<u>P</u>	<u>P</u>
Hospice care facilities	<u>L</u>	<u>P</u>	P
Housing and related facilities for senior adults or persons with disabilities	<u>P</u>	<u>P</u>	P
Life care facilities	<u>P</u>	<u>P</u>	P
Live/Work units	<u>P</u>	<u>P</u>	P
Personal living quarters	<u>P</u>	<u>P</u>	P
(c) Commercial Sales and Service			
Advanced technology and biotechnology		<u>P</u>	P
Ambulance or rescue squads, private	<u>L</u>	<u>L</u>	P
Animal boarding places	<u>SE</u>	<u>SE</u>	<u>SE</u>
Automobile filling stations		<u>SE</u>	<u>SE</u>
Automobile rental services, excluding storage of vehicles and supplies	<u>P</u>	<u>P</u>	P
Automobile rental services, including storage of vehicles and supplies		<u>L</u>	<u>L</u>
Automobile repair and services		<u>L</u>	P
Automobile sales, indoors	<u>L</u>	<u>L</u>	P
Automobile sales, outdoors [(except where a municipality prohibits the use within its jurisdiction by resolution)]		<u>L</u>	P
Clinic	<u>L</u>	<u>P</u>	P
Conference centers		<u>P</u>	P
Eating and drinking establishments	<u>L</u>	<u>P</u>	P
Health clubs and gyms	<u>L</u>	<u>P</u>	P

Home occupations, major	<u>SE</u>	<u>SE</u>	<u>SE</u>
Home occupations, registered and no-impact	<u>P</u>	<u>P</u>	<u>P</u>
Hotels and motels	<u>L</u>	<u>P</u>	<u>P</u>
Laboratories		<u>P</u>	<u>P</u>
Dry cleaning and laundry pick-up stations	<u>P</u>	<u>P</u>	<u>P</u>
Offices, general	<u>P</u>	<u>P</u>	<u>P</u>
Recreational facilities, participatory	<u>L</u>	<u>P</u>	<u>P</u>
Research, development, and related activities		<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint up to 5,000sf</u>	<u>P</u>	<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint between 5,000sf and 15,000sf</u>	<u>L</u>	<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint between 15,000sf and 60,000sf</u>		<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint over 60,000sf</u>		<u>L</u>	<u>P</u>
Self-storage facilities		<u>SE</u>	<u>SE</u>
Veterinary hospitals and offices with boarding facilities	<u>SE</u>	<u>L</u>	<u>P</u>
Veterinary hospitals and offices without boarding facilities	<u>P</u>	<u>P</u>	<u>P</u>
Warehousing, not including self-storage, less than 10,000 square feet		<u>P</u>	<u>P</u>
(d) Institutional & Civic			
Charitable and philanthropic institutions	<u>L</u>	<u>P</u>	<u>P</u>
Cultural institutions	<u>L</u>	<u>P</u>	<u>P</u>
Day care facilities and centers <u>with over 30 users</u>	<u>L</u>	<u>L</u>	<u>P</u>
Day care facilities and centers <u>with up to 30 users</u>	<u>P</u>	<u>P</u>	<u>P</u>
Educational institutions, private	<u>L</u>	<u>P</u>	<u>P</u>
Hospitals		<u>P</u>	<u>P</u>
Parks and playgrounds, private	<u>P</u>	<u>P</u>	<u>P</u>
Private clubs and service organizations	<u>L</u>	<u>P</u>	<u>P</u>
Publicly owned or publicly operated uses	<u>P</u>	<u>P</u>	<u>P</u>
Religious institutions	<u>P</u>	<u>P</u>	<u>P</u>
(e) Industrial			
Manufacturing and production, artisan	<u>P</u>	<u>P</u>	<u>P</u>
Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development		<u>L</u>	<u>P</u>
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment		<u>L</u>	<u>P</u>
(f) Other			
Accessory buildings and uses	<u>P</u>	<u>P</u>	<u>P</u>
Bus terminals, non-public		<u>P</u>	<u>P</u>
Parking garages, automobile		<u>P</u>	<u>P</u>
Public utility buildings, structures, and underground facilities	<u>P</u>	<u>P</u>	<u>P</u>

Radio and television broadcast studios		<u>P</u>	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	<u>P</u>	<u>P</u>	P

315 **59-C-15.51. Limited Uses.**

316 **59-C-15.511. Applicability.** Uses designated by an “L” in the land use table are
 317 Limited Uses and must comply with the requirements of this Section if they are on
 318 properties that are:

319 (a) Located adjacent to a property in a one-family residential or agricultural
 320 zone; or

321 (b) Separated from such a property only by the right-of-way of a primary,
 322 secondary, or tertiary residential street.

323 Where these circumstances do not apply, the use is considered a permitted use and
 324 Section 59-C-15.41(c)(1) does not apply.

325 **59-C-15.512. Requirements of Limited Uses.**

326 Development applications that include Limited Uses must

327 (a) satisfy the site plan requirements of 59-D-3;

328 (b) comply with the design recommendations of the applicable sector or master
 329 plan, and associated design guidelines; and

330 (c) ensure compatible relationships with existing and proposed adjacent residential
 331 housing through mitigating factors including, but not limited to;

332 (1) increased setbacks;

333 (2) sound and visual barriers;

334 (3) decreased structural heights, or

335 (4) diminished site lighting.

336 **59-C-15.6. General requirements.**

337 Development in the CRN, CRT, and CR [zone] zones must comply with the
 338 following requirements.

59-C-15.61. Master plan and design guidelines conformance.

Development that requires a site plan must be consistent with the applicable master or sector plan, unless the Planning Board finds that events have occurred to render the relevant master or sector plan recommendation no longer appropriate, and must [address] substantially conform to any design guidelines approved by the Planning Board that implement the applicable plan.

[59-C-15.62. Priority retail street frontages.

Development that requires a site plan and is located on a street identified as a priority retail street frontage in the applicable master plan, sector plan, or design guidelines must be developed in a manner that is consistent with the recommendations and objectives of the applicable plan and address any applicable design guidelines approved by the Planning Board that implement the applicable plan.

59-C-15.63. Streetscape.

Streetscape improvements must be consistent with the recommendations of the applicable master or sector plan and must address any Planning Board approved design guidelines that implement the applicable plan.]

[59-C-15.64]59-C-15.62. Bicycle parking spaces and commuter shower/change facility.

- [(a) Bicycle parking facilities must be secure and accessible to all residents or employees of the proposed development.
- (b) The number of bicycle parking spaces and shower/change facilities required is shown in the following table (calculations must be rounded to the higher whole number):

Bicycle and Shower/Change Facilities Required	
Use	Requirement

<i>Multi-family Residential</i>			
In a building containing less than 20 dwelling units.	At least 4 bicycle parking spaces.		
In a building containing 20 or more dwelling units.	At least 0.5 bicycle parking spaces per dwelling unit, not to be fewer than 4 spaces and up to a maximum of 100 required spaces.		
In any group living arrangement expressly for senior citizens.	At least 0.1 bicycle parking spaces per unit, not to be fewer than 2 spaces, up to a maximum of 100 required spaces.		
<i>Non-Residential</i>			
In a building with a total non-residential floor area of 1,000 to 9,999 square feet.	At least 2 bicycle parking spaces.		
In a building with a total non-residential floor area of 10,000 to 99,999 square feet.	Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces.		
In a building with a total non-residential floor area of 100,000 square feet or greater.	Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces. One shower/change facility for each gender available only to employees when the building is accessible.		

364]

365 Instead of the requirements of Article 59-E regarding bicycle parking spaces,
366 development in the CRN, CRT, and CR zones must satisfy the following
367 provisions.

368 (a) Bicycle Parking Spaces

369

<u>Use</u>	<u>Publicly Accessible Bike Spaces</u>	<u>Private, Secure Bike Spaces</u>

(1) <u>Multi- family Residential</u>		
<u>In a building containing less than 20 dwelling units</u>	<u>2</u>	<u>4</u>
<u>In a building containing 20 or more dwelling units</u>	<u>0.1 per unit to a maximum requirement of 10</u>	<u>0.5 per unit to a maximum requirement of 100</u>
<u>In any group living arrangement expressly for senior citizens</u>	<u>0.1 per unit, not fewer than 2, to a maximum requirement of 100</u>	<u>0.1 per unit, not fewer than 2, to a maximum requirement of 100</u>
(2) <u>Non-Residential</u>		
<u>Total non-residential floor area under 10,000 square feet gross floor area</u>	<u>2</u>	<u>2</u>
<u>Total non-residential floor area between 10,000sf and 100,000 square feet gross floor area (sf)</u>	<u>2 per 10,000sf</u>	<u>1 per 10,000sf, not fewer than 2, to a maximum requirement of 10</u>
<u>Total non-residential floor area greater than 100,000 square feet gross floor area (sf)</u>	<u>20</u>	<u>1 per 10,000sf, not fewer than 10, to a maximum requirement of 100.</u>

(b) For office uses with a total non-residential floor area of 100,000 square feet of gross floor area or greater, one shower/change facility is required for each gender available only to employees when the building is accessible.

[59-C-15.63]59-C-15.63. Parking.

(a) (1) For projects that satisfy the requirements for transit proximity levels 1 or 2, the number of parking spaces provided on site must not exceed the number required under Article 59-E, except that the maximum number of parking spaces for general retail and restaurant uses is 4 spaces for every 1,000 square feet of gross leasable area, and no parking spaces are required for restaurant outdoor patron areas.

(2) All projects that do not satisfy the requirements for transit proximity levels 1 or 2 must meet the parking requirements established under Article 59-E, except that the number of parking spaces for general retail and restaurant uses in Subsection (a)(1) may be provided without a parking waiver.

(b) Except for retail and restaurant uses that satisfy Subsection (a)(1) and projects that do not satisfy transit proximity level 1 or 2, the number of parking spaces required is based on a building's distance from transit as follows:

Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit

Non-residential: the number of required spaces under Article 59-E multiplied by the following factor:	0.20	0.40	0.60	0.80
Residential: the number of required spaces under Article 59-E multiplied by the following factor:	0.60	0.70	0.80	0.90

391

392 The appropriate parking rates apply to the gross floor area within each distance
393 category.]

394 Instead of the requirements of Article 59-E regarding parking space numerical
395 requirements, landscaping, and surface parking design, development in the CRN,
396 CRT, and CR zones must comply with the following provisions. All standards and
397 requirements of Article 59-E that are not modified by this Section must be
398 satisfied.

399

400 **59-C-15.631. Parking Ratios.**

401 Parking spaces must satisfy the following minimums and maximums. The
402 minimum number of spaces required is equal to the number of parking spaces that
403 would otherwise be required by Division 59-E-3 multiplied by the applicable
404 factor in the table, or at the rate indicated. When a maximum number of spaces is

405 indicated, no more parking than would otherwise be required by Division 59-E-3
 406 may be provided.

<u>Use</u>	<u>CRN</u>		<u>CRT</u>		<u>CR</u>			
<u>Distance from a level 1 or 2 transit station or stop</u>	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ¼ mile</u>	<u>¼ to ½ mile</u>	<u>½ to 1 mile</u>	<u>Greater than 1 mile</u>
<u>(a) Residential</u>								
<u>Maximum:</u>	<u>None</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>0.8</u>	<u>1.0</u>	<u>0.7</u>	<u>0.8</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>
<u>(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)</u>								
<u>Maximum:</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>0.6</u>	<u>0.8</u>	<u>0.4</u>	<u>0.6</u>	<u>4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>0.8</u>
<u>(c) All other non-residential uses</u>								
<u>Maximum:</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>0.6</u>	<u>0.8</u>	<u>0.4</u>	<u>0.6</u>	<u>0.2</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>

407
 408 (d) The appropriate rates to determine the number of parking spaces apply to
 409 the gross floor area of each use within each distance category.

410 **59-C-15.632. Accepted Parking Spaces**

411 [(c)] Parking requirements must be met by any of the following:

412 [(1)](a) providing the spaces on site;

413 [(2)](b) constructing publicly available on-street parking; or

414 [(3)](c) participating in;

415 (1) a parking lot district;

- (2) [or] a shared parking program established by municipal resolution; or
- (3) entering into an agreement for shared parking spaces in a public or private facility within [1,000 feet] ¼ mile of the subject lot, if the off-site parking facility is not in an agricultural (Division 59-C-9), planned unit development (Division 59-C-7), or one-family residential (Division 59-C-1) zone, unless otherwise allowed by this Chapter.

[(d)] Every “car-share” space provided reduces the total number of required spaces by 6 spaces for a non-residential use or 3 spaces for a residential use.

Example: A non-residential project on a CR-zoned site requiring at least 100 spaces under Article 59-E would be required to provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a transit station, the minimum requirement for parking would be 40 spaces ($100 \times 0.40 = 40$). If 2 car-share spaces were provided, that requirement would be 28 for non-residential use or 34 for residential use.

59-C-15.633. Parking space location and access.

[(e)] The design of surface parking [facilities] spaces must comply with the following:

- [(1)](a) [a] parking [facility at] spaces on or above grade must not be located between the street and the main front wall of the building or the side wall of [a] the main building on a corner lot[unless the Planning Board finds that safe and efficient circulation would be better served by a different arrangement]; and
- [(2)](b) if a site is adjacent to an alley, the primary vehicular access to the parking facility must be from that alley.]; and
- (3) curb cuts must be kept to a minimum and shared by common ingress/egress easements whenever possible.]

59-C-15.634. Drive-through facility design.

Any drive-through facility requires the approval of a site plan under Division 59-D-3 and must satisfy the following:

[(f)](a) [The design of parking facilities with drive-through services must comply with the following; however, the Planning Board may approve a design if it finds that the alternative design would provide safer and more efficient circulation:] no part of a drive-through service facility, including the stacking area, may be located within 100 feet of a property line shared with an one-family or agriculturally zoned land;

[(1)](b) [the driveway must not be] no drive-through service window, drive aisle, or stacking area may be located between the street and the main front wall of [a] the main building [or the side wall of a building on a corner lot];

[(2)](c) [the] no drive-through service window [must], drive aisle, or stacking area may be located [on the rear or] between the street and the side wall of the main building [; any service window on the side wall of a building must be] on a corner lot unless permanently screened from any street by a 5-foot or higher wall or fence; and

[(3)] curb cuts to a street must be minimized to one drive aisle of no more than 20 feet in width for two-way traffic or two drive aisles each of no more than 10 feet in width for one-way traffic]

59-C-15.635. Landscaping and lighting.

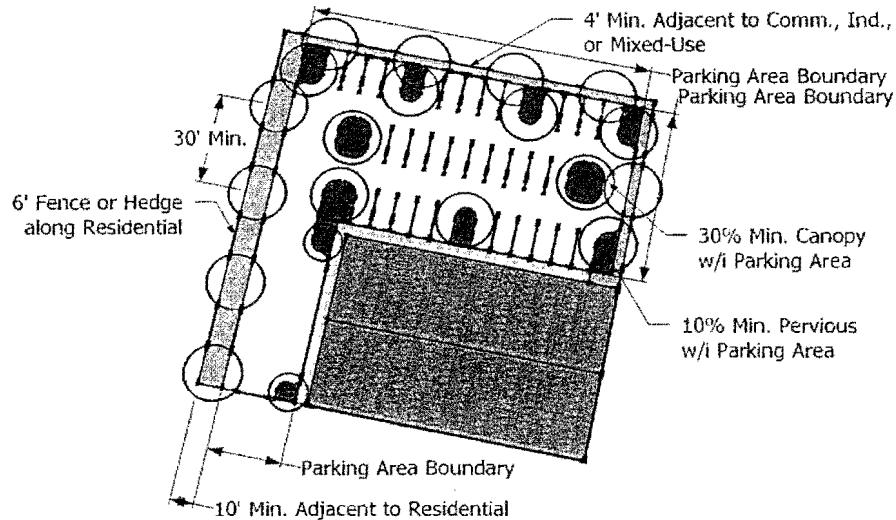
[(g)] Except for areas used for internal driveway or sidewalk connections between lots or parcels that are not zoned one-family residential [(59-C-1)] or agricultural [(59-C-9)] , landscaping for surface parking [facilities] spaces must satisfy the following requirements:

Minimum Landscape Standards for Surface Parking

Subject	Requirement
(a) <u>[Right-of-Way Screening] Property line adjacent to a right-of-way</u>	<u>No less than 6-foot [width of] wide continuous soil panel [or] (excluding any easements) with stormwater [management recharge facility (not including any PUE or PIE) with groundcover] facilities, planting bed, or lawn, including[;] a minimum 3-foot high continuous evergreen hedge or fence; [and] plus one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.</u>
(b) <u>Property line adjacent to a lot or parcel in a one-family residential or agricultural zone</u>	<u>No less than 10-foot width continuous soil panel (excluding any easements) with stormwater facilities, planting bed, or lawn including a minimum 6-foot high continuous evergreen hedge or fence; plus one deciduous tree per 30 feet of frontage.</u>
(c) <u>Property line [Adjacent] adjacent to a lot or parcel in any [Commercial, Industrial, or Mixed-Use Zone] zone not subject to (b), above</u>	<u>No less than 4-foot width continuous soil panel [or] (excluding any easements) with stormwater [management recharge facility with groundcover] facilities, planting bed, or lawn; plus one deciduous tree per 30 feet [of frontage].</u>
<u>[Adjacent to a lot or parcel in an Agricultural or Residential District</u>	<u>10-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.]</u>
(d) <u>Internal Pervious Area</u>	<u>No less than 10 percent of the parking facility area comprised of individual areas of at least 100 square feet each.</u>
(e) <u>Tree Canopy Coverage</u>	<u>No less than 30 percent of the parking facility area (at 15 years growth).</u>
(f) <u>Lighting</u>	<u>Per the Illuminating Engineering Society of North America standards, or County equivalent, with full or partial cut-off fixtures and no more than 0.5 footcandle illumination at any property line subject to (b), above.</u>

469

470



Surface Parking Landscape Requirements Illustrative

59-C-15.636. Waiver of parking provisions.

The Director, Planning Board, or Board of Appeals may waive any requirement of Section 59-C-15.63 not necessary to accomplish the objectives of this Division and Section 59-E-4.2, and in conjunction with such a waiver may adopt reasonable mitigating requirements above the minimum standards. At least 10 days notice of any request for a waiver under this Section must be provided to all adjoining property owners, affected citizen associations, and Planning Department Staff, if applicable, before a decision may be made.

59-C-15.7. Development standards.

Development in [any] the CRN, CRT, and CR [zone] zones must comply with the following standards.

59-C-15.71. Density and height.

Maximum density and height are specified by the zone established on the zoning map under the provisions of Section 59-C-15.1.

[(a) The maximum density for any standard method project is the greater of 0.5 FAR or 10,000 square feet of gross floor area. Any single land use or any

combination of land uses allowed in the zone may achieve the maximum density.

- (b) The maximum total density and mix of maximum non-residential and residential density for any project using the optional method of development is specified by the zone.]

[59-C-15.72. Height.

- (a) The maximum height for any building or structure in a standard method project is 40 feet.
- (b) The maximum height for any building or structure in an optional method project is determined by the zone.]

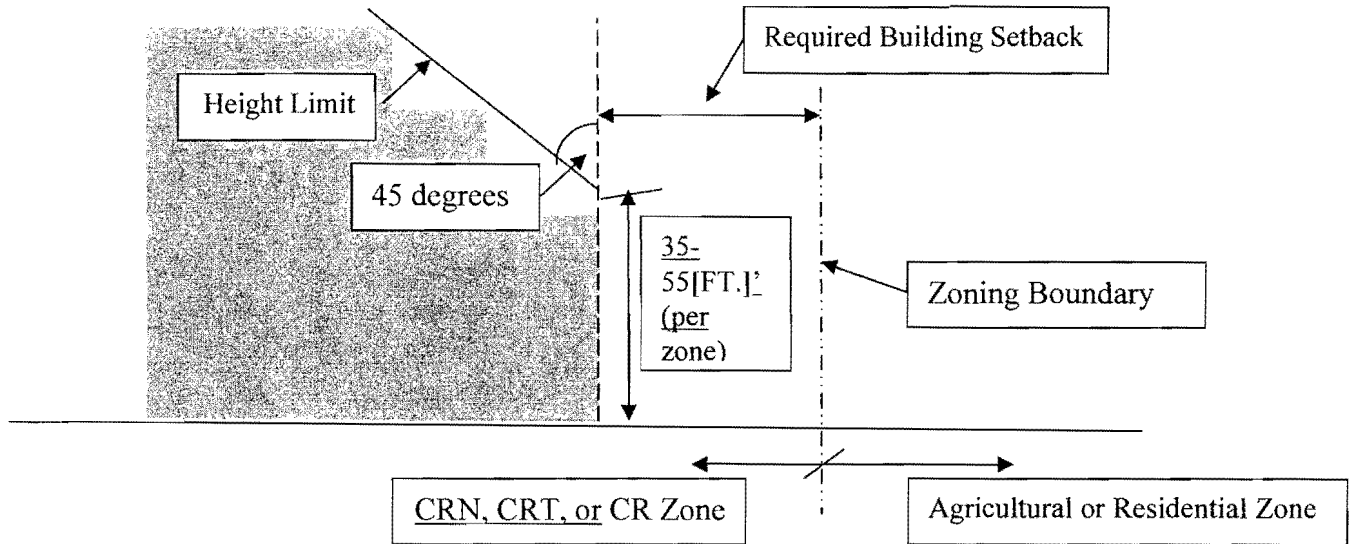
[59-C-15.73]59-C-15.72. Setbacks.

- (a) [A building must not be any closer to a lot line shared with] Where a tract of land is adjacent to a lot or parcel in [an agricultural (Division 59-C-9) or applicable residential (Division 59-C-1)] a one-family residential or agricultural zone [than] any building:

- (1) must have a minimum setback of 25 feet or the setback required by the adjacent lot or parcel, whichever is greater; and
- (2) [the building] must not project beyond a 45 degree angular plane projecting over the subject lot or parcel measured from a height of 55 feet in the CR zones, 45 feet in the CRT zones, or 35 feet in the CRN zones at the setback line determined above, with the exception of those features exempt from height and setback restrictions under Section 59-B-1.

- (b) The development of a new building in place of a building existing when [the] a CRN, CRT, or CR zone is applied may be built to the [pre-existing

setbacks] previously allowed setback if the height of the new building is not increased [over that] above the height of the former building.



Angular Plan Setback Illustration

[59-C-15.74]59-C-15.73. Public use space.

- (a) Public use space is not required for any standard method project that does not require a site plan. If a site plan is required for the proposed project, [then the minimum]public use space is [10 percent of the project's net land area.] required as follows:

<u>Gross Tract Area</u>	<u>Minimum Public Use Space</u>
<u>Up to 10,000sf</u>	<u>None</u>
<u>10,001sf up to 3 acres</u>	<u>10% of net tract area</u>
<u>Over 3 acres</u>	<u>10% of limits of disturbance</u>

- (b) Projects using the optional method of development must provide public use space as follows:

Minimum Required Public Use Space (% of net tract area)				
Acres (Gross)	Number of Existing, Proposed, and Master-Planned Right-of-Way Frontages			
	1	2	3	4+
< ½	0	0	0	5
½ - 1.00	0	0	5	10
1.01 - 3.00	0	5	10	10
3.01 - 6.00	5	10	10	10
6.01 +	10	10	10	10

(c) Public use space must:

(1) be [calculated on the net tract area that was included in the sketch plan application;

(2) be] rounded to the next highest 100 square feet;

[(3)](2) be easily and readily accessible to the public; and

[(4) be distributed within the entire tract area included in the sketch plan application; and

(5)](3) contain amenities such as seating options, shade, landscaping, artwork, or [other similar public benefits] fountains.

(d) Instead of providing on-site public use space, [for any site of 3 acres or less, a development may propose the following alternatives,] an applicant may satisfy all or part of the requirement by one or more of the following means, subject to Planning Board approval:

(1) implementing public park or public use space improvements of an equal or greater size within [¼ mile of the subject site] or near the applicable master or sector plan area; or

(2) making a payment in part or in full [to the Public Amenity Fund under Section 59-D-2.31.] for design, construction, renovation, restoration, installation, and/or operation within or near the applicable master or sector plan area if the payment is:

(A) equal to the cost of constructing an equal amount of public use space and associated amenities on-site per square foot plus the fair market value of the application tract of land per square foot;

(B) used to implement the open space, recreation, and cultural goals of the applicable master or sector plan; and

(C) made within 30 days of the release of any building permit for the subject application.

[(e) A development on a site larger than 3 acres may only provide off-site public use space in order to provide master-planned open space improvements, or a payment under Subsection (d)(2), for an area of equal or greater size required on site that is:

(1) located within the same master plan area as the proposed development; and

(2) indicated on the approved sketch plan.]

[59-C-15.75]59-C-15.74. Residential amenity space.

(a) Any building containing 20 or more dwelling units must provide amenity space for its residents as follows:

Required Residential Amenity Space	
Type of Amenity Space	Area of Amenity Space
Indoor space in a multi-purpose room, fitness room, or other common community room(s), at least one of which must contain a kitchen and bathroom.	<u>A minimum of 20 square feet per market-rate dwelling unit up to 5,000 square feet.</u>
Passive or active outdoor recreational space.	<u>A minimum of 20 square feet per market-rate dwelling unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space, up to 5,000 square feet.</u>

(b) [The] Additional amenity space is not required for Moderately Priced

Dwelling Units (MPDUs) or Workforce Housing Units (WFHUs) on a site

within a metro station policy area or where the Planning Board finds [that there is]adequate recreation facilities and open space area available within [a] ½ mile [radius] of the subject site. If such a finding cannot be made, amenity space must be provided as if all the dwelling units were market-rate units.

- (c) [The amenity space requirement may be reduced by ½ for Workforce Housing Units (WFHUs) located within a metro station policy area or if the minimum public open space requirement is satisfied on site.
- (d)] The provision of residential amenity space may be counted towards meeting the required recreation calculations under the M-NCPPC Recreation Guidelines, as amended.

59-C-15.8. Special regulations for the optional method of development

[59-C-15.81. Incentive Density Provisions.]

This section establishes incentives for optional method projects to provide public benefits in return for increases in density and height above the standard method maximums[, consistent with the applicable master or sector plan,] up to the maximum permitted by the zone.

59-C-15.81. Incentive Density Categories.

[(a)] Public benefits must be provided that enhance or contribute to the objectives of the CRT and CR [zone] zones in some or all of the following categories:

- [(1)](a) [Master-planned major] Major public facilities;
- [(2)](b) Transit proximity [for residents, workers, and patrons];
- [(3)](c) Connectivity between uses [and], activities, and mobility options;
- [(4)](d) Diversity of uses and activities;
- [(5)](e) Quality of building and site design; and

596 [(6)](f) Protection and enhancement of the natural environment[; and
 597 (7) Advanced dedication of right-of-way].

598 [Sections 59-C-15.82 through 59-C-15.88 indicate] Section 59-C-15.85 indicates
 599 the individual [types of] public benefits that may be accepted in each of
 600 these categories.

601 **59-C-15.82. Public benefits required.**

602 Any optional method development must provide public benefits from at least 4 of
 603 the 6 categories listed in Section 59-C-15.81 and:

604 (a) Development in the CRT zones must provide public benefits worth a
 605 minimum total of 50 points; and

606 (b) Development in the CR zones must provide BLTs required under Section
 607 59-C-15.856(a) for at least 5 points and provide additional public benefits;
 608 the sum of the public benefit points must equal at least 100.

609 **59-C-15.83. General incentive density considerations.**

610 [(b)] In approving any incentive density based on the provision of public
 611 benefits, the Planning Board must consider:

612 [(1)](a) The [policy] recommendations and objectives [and priorities] of the
 613 applicable master or sector plan;

614 [(2)](b) [Any applicable design guidelines and any adopted public benefit
 615 standards and guidelines] The CR Zone Incentive Density Implementation
 616 Guidelines and any design guidelines adopted for the applicable master plan
 617 area;

618 [(3)](c) The size and configuration of the tract;

619 [(4)](d) The relationship of the site to adjacent properties;

620 [(5)](e) The presence or lack of similar public benefits nearby; and

[(6)](f) Enhancements beyond the elements listed in the individual public benefit descriptions or criteria that increase public access to or enjoyment of the benefit.

Examples: Pedestrian activation along a through-block connection, greater vegetated roof or tree canopy area than required, tower step-backs at a lower height or deeper into the site than the minimum necessary to qualify for the benefit, or provision of neighborhood services for more smaller businesses than required.

(c) Any incentive density increase approved by the Planning Board for an optional method of development application must satisfy Subsection 59-C-15.87(a).]

59-C-15.84. CR zones incentive density implementation guidelines.

[(d)] The Planning Board must adopt, publish, and maintain guidelines that detail the standards and requirements for public benefits [that may be provided for incentive density]. The guidelines must:

[(1)](a) be consistent with the [recommendations and] objectives of [the applicable master or sector plan and the purpose of the CR zones] this Division;

[(2)](b) be in addition to any standards, requirements, or rules of incentive density calculation included in this Division, but may not [supersede] conflict with those provisions; and

[(3)] allow any single feature of a project a density incentive from only 1 public benefit;

[(4)](c) only [address the] allow incentive density for those public benefits listed in [Sections 59-C-15.82 through 59-C-15.88 and must not add a public benefit category; and

- (5) include the criteria to determine when an early dedication of right-of-way qualifies for incentive density, and the amount of the incentive density permitted] Section 59-C-15.85.

59-C-15.85. Individual public benefit descriptions and criteria.

[59-C-15.82]59-C-15.851. [Incentives for master-planned] Major public facilities.

Major public facilities [such as schools, libraries, recreation centers, urban parks, and county service centers] provide public services at convenient locations and where increased density creates a greater need for civic uses and greater demands on public infrastructure [, centers for community meetings, and civic events].

(a) Major public facilities include, but are not limited to, such facilities as schools, libraries, recreation centers, parks, county service centers, public transportation or utility upgrades, or other resources delineated in an applicable master or sector plan.

(b) If a major public facility is not recommended in the applicable master or sector plan, the Planning Board must find that the facility or improvement provides the community with a resource that is at least as beneficial as other major facilities recommended in the applicable master or sector plan.

Additionally, any infrastructure upgrade may only receive incentive density for improvements beyond those required by any applicable adequate public facilities requirement to complete the proposed development.

(c) Because of their significance in place-making, the Planning Board may approve incentive density of up to 40 points in the CRT zones and 70 [percent] points in the CR zones for (1) the conveyance of a site or floor area for, [and/or] (2) construction of, and/or (3) making a payment for a major public facility that is [designated on a master plan or sector plan and

is] accepted for use and/or operation by [the] an appropriate public agency, community association, or nonprofit organization.

[59-C-15.83]59-C-15.852. [Incentives for transit] Transit Proximity.

[In order to encourage] Development near transit facilities encourages greater use of transit, [control] controls sprawl, and [reduce] reduces vehicle miles traveled, congestion, and carbon emissions[, the Planning Board may approve incentive density for transit proximity under this section. The percentage of incentive density awarded to a project for transit proximity is]. Transit proximity points are granted for proximity to existing or planned transit based on transit service level and CRT and CR zones as follows:

[Transit Proximity]	Level 1	Level 2
Adjacent or confronting	50%	30%
Within ¼ mile	40%	25%
Between ¼ and ½ mile	30%	20%
Between ½ and 1 mile	20%	15%]

<u>Proximity</u>	<u>Adjacent or confronting</u>		<u>Within ¼ mile</u>		<u>Between ¼ and ½ mile</u>		<u>Between ½ and 1 mile</u>	
<u>Transit Service Level</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
<u>CRT</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>12.5</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>7.5</u>
<u>CR</u>	<u>50</u>	<u>30</u>	<u>40</u>	<u>25</u>	<u>30</u>	<u>20</u>	<u>20</u>	<u>15</u>

- (a) A project is adjacent to or confronting a transit station or stop if it shares a property line[,] or easement line, or is separated only by a right-of-way from an existing or planned transit station or stop and 100 percent of the gross

tract area [submitted] in a single sketch plan application is within ¼ mile of the transit portal.

(b) For split proximity-range projects:

(1) [For all other projects to qualify for incentive density availability at the other distances,] If at least 75 percent of the gross tract area in a single sketch plan application [must be within the range for which the incentive is proposed.] is within the closer of two proximity ranges, the entire project may take the points for the closer range;

(2) [The incentive density for projects] If less than 75 percent of the gross tract area in [1 distance range] a single sketch plan is within the closer of 2 proximity ranges, the points must be calculated as the weighted average of the percentage of area in each range.

[59-C-15.84]59-C-15.853. [Incentives for connectivity] Connectivity and mobility.

[In order to enhance] Development that enhances connectivity between uses and amenities; [and increase] increases mobility options; [encourage] encourages non-automotive travel [for short and multi-purpose trips as well as for commuting]; [facilitate] facilitates social [and commercial] interaction; [provide] provides opportunities for healthier living; and [stimulate] stimulates local businesses[, the Planning Board may approve incentive density of up to 30% for a project that provides at least 2 of the following public benefits:].

(a) **Neighborhood Services:** [Safe] At least 10 points for safe and direct pedestrian access to at least 10 different retail services on site or within ¼ mile, of which at least 4 have a [maximum] retail bay floor area of no greater than 5,000 square feet.

- (b) **Minimum Parking:** [Provision of the minimum required] Up to 10 points for providing less than the maximum allowed number of parking [for projects of one acre of gross tract area or more] spaces, if a maximum is applicable under Section 59-C-15.631.
 - (c) **Through-Block Connections:** [Safe] Up to 20 points for safe and attractive pedestrian connections between streets.
 - (d) **Public Parking:** [Provision of] Up to 25 points for providing up to the maximum number of parking spaces allowed in the zone as public parking.
 - (e) **Transit Access Improvement:** [Ensuring] Up to 20 points for ensuring that access to transit facilities meets County standards for handicapped accessibility.
 - (f) **Trip Mitigation:** [A] At least 15 points for entering into a binding [and verifiable] Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips attributable to the site in excess of any other regulatory requirement; the agreement must result in a non-auto driver mode share of at least 50% for trips attributable to the site.
 - (g) **Streetscape:** Up to 20 points for construction of off-site streetscape excluding any streetscape improvements required by this Division.
 - (h) **Advance Dedication:** Up to 30 points for dedicating or providing a reservation for dedication for master-planned rights-of-way in advance of a preliminary or site plan application.
 - (i) **Way-Finding:** At least 5 points for design and implementation of a way-finding system orienting pedestrians and cyclists to major open spaces, cultural facilities, and transit opportunities.
- [59-C-15.85]59-C-15.854. [Incentives for diversity] Diversity of uses and activities.**

[In order to increase] Development that increases the variety and mixture of land uses, types of housing, economic [diversity] variety, and community activities; [contribute] contributes to development of [a] more efficient and sustainable [community] communities; [reduce] reduces the necessity for automobile use; and [facilitate] facilitates healthier lifestyles and greater social interaction[, the Planning Board may approve incentive density of up to 30% for a project that provides affordable housing or a public facility, as described below, or at least 2 of the other following public benefits:].

(a) **Affordable Housing:**

(1) All residential development must comply with the requirements of Chapter 25A for the provision of Moderately Priced Dwelling Units (MPDUs) [and may provide Workforce Housing Units (WFHUs) under Chapter 25B.

(1) MPDU Incentive Density: Provision of MPDUs above the minimum required is calculated on the total number of dwelling units as required by Chapter 25A, and the percent of incentive density increase is based on the proposed FAR for the entire project], except that achieving bonus density under Section 25A-5(c)(3), as amended from time to time, entitles an applicant to incentive density points under this Division equal to the bonus density percentage.

Example: Provision of 14.5% MPDUs is awarded [an incentive density of 20 % (see 25A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5 FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR] 20 points; provision of 13.0% MPDUs is awarded 5 points.

(2) [WFHU Incentive Density: Provision of] Up to 30 points for providing Workforce Housing Units (WFHUs) at a rate of [is

calculated at the following rate:] 2 times the percentage of total units,
excluding MPDUs [provided as WFHUs].

Example: Provision of 5% WFHUs is awarded [incentive density of] 10[%]
points; provision of 12% WFHUs is awarded [incentive density of] 24[%]
points.

- (b) **Adaptive Buildings:** [Provision of buildings with] At least 10 points for constructing commercial or mixed use buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications.
- (c) **Care Centers:** [Child] Up to 20 points for constructing a child or adult day care [facilities] facility with spaces for at least 15 users.
- (d) **Small Business [Retention] Opportunities:** [Provision of] Up to 20 points for providing on-site space for small, neighborhood-oriented businesses.
- (e) **Dwelling Unit Mix:** [Provision of] At least 5 points for integrating a mix of residential unit types with at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.
- (f) **Enhanced Accessibility for the Disabled:** [Provision of] Up to 20 points for constructing dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or [units that satisfy]an equivalent County standard.
- (g) **Live/Work:** At least 10 points for developments of up to 2.0 FAR total density that provide at least the greater of 3 units or 10% of the total unit count as live/work units.
- [59-C-15.8]59-C-15.855. [Incentives for quality] **Quality building and site design.**

High quality design is especially important in urban, integrated-use settings to ensure that buildings and uses are visually compatible with each other and adjacent communities and to provide a harmonious pattern of development. Due to [the] increased density [of] in these settings, buildings tend to [have high visibility. High] be highly visible and high quality design [may help to] helps attract residents, patrons, and businesses to [locate in] these [settings] areas. Location, height, massing, façade treatments, and ornamentation of buildings affect sense of place, orientation, and the perception of comfort and convenience. The quality of the built environment affects light, shadow, wind, and noise, as well as the functional and economic value of property. [In order to promote high quality design, the Planning Board may approve incentive density of up to 30% to a project that provides at least 2 of the following public benefits:]

- (a) **Historic Resource Protection:** [Preservation] Up to 20 points for the preservation and/or enhancement of or payment towards preservation and/or enhancement of a historic resource [indicated on] or a contributing element within a historic district designated in the Master Plan for Historic Preservation [in conformance with a plan approved by the Historic Preservation Commission. A fee-in-lieu for a specific preservation project may be paid to the Historic Preservation Division as specified in the Guidelines for Public Benefits].
- (b) **Structured Parking:** [Parking provided] Up to 20 points for placing parking within [a structure or below-grade] above- or below-grade structures.
- (c) **Tower [Setback] Step-Back:** [Setback of building] At least 5 points for stepping back a building's upper floors by a minimum of 6 feet [beyond]

behind the first floor façade [at a maximum height of] . The step-back must begin at a height no greater than 72 feet.

(d) **Public Art:** [Provision of] Up to 15 points for installing public art [must be] reviewed for comment by, or paying a fee accepted by, the [Public Arts Trust Steering Committee. A fee-in-lieu may be paid to the Trust as specified in the Guidelines for Public Benefits] Arts and Humanity Council.

(e) **Public Open Space:** [Provision of] Up to 20 points for providing, or making a payment for, open space in addition to the minimum public use space required by [the zone. Public open space must be easily accessible to the public during business hours and/or at least from sunrise to sunset and must contain amenities such as seating, plantings, trash receptacles, kiosks, and water features] this Division.

[(f) **Streetscape:** Construction of off-site streetscape in addition to the requirements of this division].

[(g)](f) **Exceptional Design:** [Building design that provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces new materials, forms, or building methods; uses design solutions to make compact infill development living, working, and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building.] Up to 10 points for building or site design whose visual and functional impacts enhance the character of a setting and the purposes delineated in this Section.

(g) **Architectural Elevations:** Up to 20 points for providing elevations of architectural façades and agreeing to be bound by particular elements of

design, such as minimum amount of transparency, maximum separation between doors, awning provisions, sign restrictions, or lighting parameters that affect the perception of mass, pedestrian comfort, or enhance neighborhood compatibility.

[59-C-15.87]59-C-15.856. [Incentives for] Protection and enhancement of the natural environment.

[In order to combat sprawl and] Protection and enhancement of natural systems and decreases in energy consumption help mitigate or reverse environmental [problems] impacts such as heat island effects from the built environment, inadequate carbon-sequestration, habitat and agricultural land loss, and air and water pollution caused by reliance on the automobile [, the Planning Board may approve a density increase up to 30% for the public benefits in this Subsection:].

(a) **Building Lot Termination(BLT):** [CR zones require] Up to 30 points for the purchase of BLT easements or payment to the Agricultural Land Preservation Fund (ALPF) [for at least 5% but no more than 30% of the incentive density under the following conditions]. The first 5 points are mandatory for all developments in the CR zones; up to 25 additional points are allowed as an option.

(1) In the CR zones, an applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 5% of the incentive density floor area under the following parameters:

(A) One BLT must be purchased or equivalent payment made for every 20,000 square feet of gross floor area to qualify for the first 5% incentive density floor area; and

(B) Any private BLT easement must be purchased in whole units;
or

(C) BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.

(2) [BLT payments must be made to the Agricultural Land Preservation Fund, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made to the Agricultural Land Preservation Fund for at least the fraction of the BLT easement.] Up to 25 points for the purchase of BLTs, or equivalent payments to the ALPF for any incentive density above 5%. Each BLT easement purchase or payment is equal to 30,000 square feet of gross floor area, or such proportionate square footage represented by a fractional BLT purchase or payment. This is converted into points by dividing the incentive density floor area covered by the purchase or payment by the total square feet of the incentive density area.

(3) In the CRT zones, BLT payments are optional; each BLT easement purchase or payment is equal to 30,000 square feet of gross floor area, or such proportionate square footage represented by a fractional BLT purchase or payment. [(A) For the first 5% of incentive density, each BLT easement purchase or payment allows 20,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.

(B) For the incentive density above 5%, each BLT easement purchase or payment allows 30,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.]

Example: If a 50,000 square-foot (sf) CR3.0 site is fully developed, the incentive density available to be earned equals 125,000sf (150,000sf - 25,000sf = 125,000sf). The 5% BLT requirement for 125,000sf equals 6,250sf, which equals 0.32 BLT (6,250sf / 20,000sf = 0.32). If the applicant seeks an additional 10 points through the purchase of BLTs, 10% of the incentive density is calculated, which in this case is 12,500sf (125,000sf x 0.10 = 12,500sf). Because 1 BLT, above the required 5%, is equivalent to 30,000sf, the 12,500sf requires a payment for an additional 0.42 BLTs (12,500sf / 30,000sf = 0.42). Together, the required and incentive BLTs equal 0.74 BLTs for 15 points in the Environment category.

- (b) **Energy Conservation and Generation:** At least 10 points for constructing buildings that [Provision of energy-efficiency that exceeds] exceed the energy-efficiency standards for the building type by 17.5% for new buildings or 10% for existing buildings [, or provision of]. At least 15 points for providing renewable energy generation facilities on-site or within ½ mile of the site for a minimum of 2.5% of the projected energy requirement for the development.
- (c) **[Green] Vegetated Wall:** [Installation] At least 5 points for the installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage façade that is at least 300 feet in area and is visible from a public street or open space.
- (d) **Tree Canopy:** [Coverage] At least 10 points for tree canopy coverage at 15 years of growth of at least 25% of the on-site open space.

- (e) **Vegetated Area:** [Installation] At least 5 points for installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet [of previously impervious surfaces]. This does not include vegetated roofs.
- (f) **Vegetated Roof:** [Provision] At least 10 points for installation of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.
- (g) **Cool Roof:** At least 5 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.
- (h) **Recycling Facility Plan:** At least 5 points for providing a recycling facility plan to be approved as part of a site plan for buildings that must comply with Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04.
- (i) **Habitat Preservation and Restoration:** Up to 20 points for protection, restoration, or enhancement of natural habitats, onsite or within the same local watershed, which are in addition to requirements of the Forest Conservation Law or other county laws.

[59-C-15.88. Advanced dedication of right-of-way.

When sketch plans or site plans are approved, the Planning Board may allow an incentive density not to exceed 30% for a prior dedication of rights-of-way for roadways, sidewalks, or bikeways recommended in the applicable master or sector plan, if the County or the State is responsible for constructing the facility on the right-of-way.]

59-C-15.9. Existing Approvals.

- 944 (a) One or more lawfully existing buildings [or], structures [and the], or uses
 945 [therein which] ,that predate the [applicable sectional map
 946 amendment]application of the CR zone to the site[,] are conforming
 947 structures or uses, and may be continued, renovated, repaired, or
 948 reconstructed to the same size and configuration, or enlarged up to a total of
 949 10 percent above the total existing floor areas of all buildings and structures
 950 on site or 30,000 square feet, whichever is less, and such development does
 951 not require a site plan. [Enlargements] Expansions in excess of the
 952 limitations in this Subsection will require compliance with the full
 953 provisions of this Division. Uses located in a building or structure deemed
 954 conforming under the provisions of this Subsection may be converted to any
 955 permitted non-residential or residential use(s) up to the density limits for the
 956 land use established by the CRT, CRN, or CR zone.
- 957 (b) A project that received an approved development plan under Division 59-D-
 958 1 or schematic development plan under Division 59-H-2 before the
 959 [enactment] application of the CR zones to the site may proceed under the
 960 binding elements of the development plan and will thereafter be treated as a
 961 lawfully existing building, and may be renovated or reconstructed under
 962 Subsection (a) above. Such development plans or schematic development
 963 plans may be amended as allowed under Division 59-D-1 or 59-H-2 under
 964 the provisions of the previous zone; however, any incremental increase in
 965 the total floor area beyond that allowed by Subsection (a) above or any
 966 incremental increase in building height greater than 15 feet requires, with
 967 respect to the incremental increase only, full compliance with the provisions
 968 of this Division. Any failure to fully comply with the binding elements of

the development plan will require full compliance with the provisions of this Division.

- (c) At the option of the owner, any portion of a project subject to an approved development plan or schematic development plan described in Subsection (b) above may be developed under this Division. The remainder of that project continues to be subject to the approved development plan or schematic development plan, under Subsections (a) and (b).
- (d) A project which has had a preliminary or site plan approved before the applicable sectional map amendment may be built or altered at any time, subject to either the full provisions of the previous zone or this Division, at the option of the owner. If built under the previous approval, it will be treated as a [lawfully existing building] conforming building, structure, or use and may be renovated or reconstructed under Subsection (a) above. If built with an incremental increase over the previous approval, only that incremental increase must comply with this Division.
- (e) A project that has had a special exception approved before application of the CR zone to the site may continue as a lawfully existing use as long as it fully complies with the terms and conditions of its approval. Any failure to fully comply with the terms and conditions of the special exception approval will require full compliance with the provisions of this Division. If a special exception holder chooses to operate under this Division instead of under the special exception, written notice must be provided to the Board of Appeals that the special exception has been abandoned.

* * *

Sec. 3. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

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996 This is a correct copy of Council action.

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999 _____
Linda M. Lauer, Clerk of the Council

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MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

March 11, 2011

The Honorable Valerie Ervin, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Re: Planning Board Recommendation to County Council for
Introduction of Zoning Text Amendment to make changes to the
Commercial/Residential (CR) Zones.

Dear Ms. Ervin and Councilmembers:

Attached for your consideration is a zoning text amendment with three functions:

- (i) to create a new CRN (Neighborhood) zone;
- (ii) to create a new CRT (Town) zone; and
- (iii) to make a variety of mostly minor amendments to the CR zones, some related to the integration of the new CRN and CRT zones, and some representing improvements and clarifications resulting from experience with the CR zones since their adoption.

At our meeting on March 10, 2011, the Planning Board voted unanimously, 5-0, to recommend introduction of the attached zoning text amendment (ZTA). We believe that creating a family of CR zones will provide a valuable set of tools to promote vibrant, mixed-use development in diverse areas of the County, and that the changes to the existing CR zones will make the zones easier to administer while retaining the benefits that the Council recognized when it first approved the CR zones.

As you know, following PHED committee work sessions on the Kensington Sector Plan in March of 2010, Planning Board Staff was directed to evaluate the appropriateness of the CR zones for lower density areas with smaller properties, diverse ownership patterns, and detached-house residential neighborhoods in close proximity. The Planning Board and Planning Staff have also considered this question in the context of the Takoma/Langley Crossroads and Wheaton Sector Plans, each of which presents its own unique challenges.

To resolve these issues, Planning Board Staff discussed several models with stakeholders, including overlay zones, retention of existing zones, modifications to other commercial and mixed-use zones, or modifications to the CR zones. For numerous

reasons, however, these models did not provide adequate solutions. Overlay zones have generally not proved to be as effective as predicted, and a new overlay zone would be needed in each area where the CR zones would otherwise be considered. Existing zones lack the mixture of uses desired in many places. They also lack the protections provided by master plan conformance and site plan review requirements. Modifications to existing zones, such as MXTC or TMX, risked unintended consequences in Olney or Twinbrook, where these zones are already in place. Ultimately, the Planning Board and its staff concluded that the best approach would be to create two new CR zoning categories that retain much of the flexibility of the existing CR zones while lessening public benefit requirements for certain areas and ensuring compatibility with surrounding residential uses.

Specifically, we developed the CR Neighborhood (CRN) and CR Town (CRT) zones for areas where there are smaller properties, lower densities, and more challenging economic conditions. The existing CR zones were categorized as CR Metro (still called "CR" because the zone has been mapped as CR in White Flint and Gaithersburg). Early on in thinking about developing a "CR Lite" zone, it became clear that two zones would be necessary: one for areas where existing commercial zones are located next to single-family residential neighborhoods, and one for areas where requiring too many public benefits might impede redevelopment.

The Planning Board undertook a detailed review process in crafting the attached ZTA, including a very high level of participation by interested community members, attorneys, and business owners. We held eight work sessions on this ZTA, including one that was devoted entirely to public comment. We had the benefit of extensive, detailed written comments from participants a variety of viewpoints, several of whom took the time and trouble to prepare a detailed, point-by-point analysis of the proposed amendments. We also had the benefit of the considerable energy and talent of our own staff, who repeatedly considered the public comments and Board discussion and came up with new ideas for how to adjust the draft zoning categories in response.

The CR, CRT, and CRN zones have been carefully calibrated to address varied and sometimes competing goals. Uses, density and height limits, site plan thresholds, standard method densities, public benefit requirements, parking requirements, and development standards have all been crafted to ensure that public review of development applications is based on impacts to the community, and that opportunities for revitalization are appropriate to the context. A change to any one standard or threshold would have consequences for other aspects, all of which need to work together.

One of the challenges we faced as a deliberative body was the difficulty of satisfying diverse interests. The primary concern for some people who participated in developing the ZTA is preserving maximum flexibility for property owners and controlling the cost of public benefits, particularly for small properties. For other participants, the main goal is maximizing the value of public benefits and minimizing the risk that redevelopment might adversely affect the character of residential neighborhoods.

The Planning Board heard these views and many in between. And we expect the Council will hear similar concerns as it considers this ZTA. To assist the Council and its staff in understanding how the Planning Board reached the careful balancing of objectives represented in this ZTA, our staff has prepared a table that summarizes the many written comments we received and our staff's response. The table is arranged by ordinance section, so that one can readily check the comments and discussion on any given section while that section is being discussed. That table will be finalized in the next week or two to reflect some late-arriving comments, and will be provided to the Council and its staff shortly. We hope this will be a useful tool.

The following summary outlines the changes recommended to the zone to integrate the CRN and CRT zones. Generally, though, the changes to the zone allow incorporation of the new CR categories without changing the fundamental architecture of the CR zones or the base requirements, standards, and benefits. The summary also provides some background on the Planning Board's intent in recommending certain changes.

The sections of the CR zones remain the same:

- 15.1. Zones Established.
- 15.2. Descriptions and Objectives of the CR Zones.
- 15.3. Definitions Specific to the CR Zones.
- 15.4. Methods of Development and Approval Procedures.
- 15.5. Land Uses.
- 15.6. General Requirements.
- 15.7. Development Standards.
- 15.8. Special Regulations for the Optional Method of Development.
- 15.9. Existing Approvals.

Changes to 15.1. Zones Established.

- Introduction of the CRN and CRT zoning categories to Division 59-C-15.
- Density and height limits set for each CR category: CRN up to 1.5 FAR and 65 feet in height; CRT up to 4.0 FAR and 150 feet in height; and CR remains the same – up to 8.0 FAR and 300 feet in height. These ranges have allowed modeling of fine-tuned densities and heights with the appropriate uses for each category.
- Density averaging has only been changed to ensure it is clear that uses are regulated by the underlying zone.
- Applicability remains the same.

Changes to 15.2. Descriptions and Objectives of the CR Zones.

- Language was changed to focus the objectives and improve clarity. No substantive change is intended.

Changes to 15.3. Definitions Specific to the CR Zones.

- Three definitions were added.
- “Applicable Residential Zone” was added as a defined term for shorthand used throughout the CR zones to address compatibility at locations near residential uses.
- “Limits of Disturbance” was added to deal with public use space requirements on very large lots.
- “Tenant Footprint” was added to split general retail uses by size to better regulate neighborhood impact in the various CR zones.
- A change to “Transit Proximity” was made to clarify that a transit station or stop must at least be in the County’s Capital Improvement Program (“CIP”) to be considered “planned” and therefore qualify a nearby property owner for reduced parking and incentive density. This was a subject of considerable discussion, acknowledging the tension between encouraging development in areas where transit has been proposed because additional density will help justify construction of the transit, and recognizing that when transit has been recommended in a master plan but is not programmed in the CIP it is very uncertain. Therefore, the public benefit of focusing density near potential future transit is too intangible to justify granting incentive density on that basis. A majority of the Planning Board agreed that at a minimum, incentive density for transit proximity should require that the transit be far enough along to be part of the CIP. Two members argued that it should be enough to get incentive density that transit has been recommended in a master plan, because private property owners cannot control when transit infrastructure is actually built. The meaning of “planned” transit for these purposes was somewhat unclear in the original CR zone legislation, so clarification is called for, whether the Council agrees with the Planning Board majority or with the minority view. An alternative that was also considered, but ultimately not brought forward, was that a reduced incentive density may be appropriate for transit facilities that are within master plans, but not yet programmed in the CIP. Planning Board staff will be able to provide alternatives if the Council is interested in pursuing this or other options during its consideration of the ZTA.

Changes to 15.4. Methods of Development and Approval Procedures.

- Different standard method densities are set for the CRN, CRT, and CRN zones. Standard method in the CR zone remains 0.5 FAR, and increases in the CRT zone to allow properties in these areas more development potential without necessarily having to meet optional method requirements. Finally, the CRN zone, for which we do not propose to have any optional method, the standard method is set at 1.5 FAR.
- As before, any development above the standard method requires public benefits under Section 59-C-15.8.
- Site plan thresholds have been changed to add a new element: any development that proposes a use designated as “L” for “limited” in the use

table will require a site plan. The new concept of "limited" uses establishes a third use category in between "permitted" and "special exception" for uses that require particularly careful consideration when located near sensitive uses (those in single-family residential and agricultural zones). Uses are categorized as Limited when they have potential adverse effects that may require the kind of individualized mitigation that site plan review can provide: visual and noise buffering, setbacks, careful location of parking, etc.

- With this additional site plan trigger, site plan will be required in all CR Zones if a development proposes:
 - A Limited use;
 - A building greater than 10,000 square feet;
 - A building height above 40 feet; or
 - Ten or more dwelling units.

In addition, site plan will be required for all optional method development, whether in the CR or CRT zones.

- Optional method changes have been made to clarify, streamline, and focus the contents, procedures, and findings related to sketch plans. No substantive changes are intended.
- The greatest amount of debate was over the implications of sketch plan changes under Section 59-C-15.43(d). In the end, a majority of Board members felt that language should be inserted to clarify the interpretation of the existing language on which the Board relied in its recent approvals of the first three sketch plans that have been submitted under the CR zones: that the Board has the authority to require changes from the concept submitted at sketch plan when the details of a site plan are reviewed. The Board felt strongly that if, as one member suggested, changes could be made only with the agreement of the applicant, thereby effectively binding the Planning Board to the key elements of a sketch plan, that would require a sketch plan to be more detailed than the zone intends it should be, viz., a concept plan. This is most clearly indicated in the language of the CR zone that describes the basis for a sketch plan approval: under Section 59-C-15.43(c), the Planning Board is directed to approve a sketch plan if it finds that it is "appropriate in concept and appropriate for further detailed review at site plan."

Changes to 15.5. Land Uses.

- Permitted land uses have not changed for the CR zones.
- For the CRN zones, which will often be adjacent to single-family homes, a number of precedents were analyzed, numerous citizen meetings were held, and pages of written testimony were reviewed. The ZTA recommends a list of Permitted, Limited, and Special Exception uses which, in combination with the site plan requirement for Limited uses, will allow for a mix of neighborhood-serving commercial and residential uses while maintaining compatibility with adjacent homes.

- The CRT zones, with greater applicability to larger areas suitable for medium density development, allow more uses than the CRN zones, but less than the CR zones.
- Limited uses are defined by proximity to residential uses, and particular language regarding compatibility was crafted to guide site plan review.

Changes to 15.6. General Requirements.

- Master plan and design guideline consistency are still required for all site plans. The ZTA recommends adding a phrase identical to the subdivision regulations, to allow the Planning Board to find that events have changed to render the master plan recommendations no longer appropriate. We believe that this will provide valuable flexibility, with the assurance that as the chief architect of our master plans, the Planning Board understands the importance of master plan integrity and will, as it has historically in the subdivision context, make use of this language sparingly. In fact, the use of this language during subdivision review has been applied only a few times, according to the collective memory of staff that has been here for the past 20-plus years.
- Priority retail streets and streetscape requirements have been removed because they are both aspects of master plans or design guidelines and, therefore, redundant with the master plan consistency requirement.
- Bicycle parking and shower facility requirements have been clarified in a more detailed table.
- Parking requirements have been modified to incorporate the CRN and CRT zones; parking ratios for the CR zones remain unchanged, the ratios for CRT and CRN are increased and, in most cases, maximums for these categories have been removed.
- Municipal parking facilities have been added as accepted parking spaces.
- Drive-throughs are required to have a site plan review.
- A waiver provision based on the existing language in Article 59-E has been added.
- Other changes have been made for clarity and simplicity.

Changes to 15.7. Development Standards.

- Density and height remain but have been consolidated.
- Setbacks have only been changed to step the angular plane setback down with the CRT and CRN zones to 45' and 35', respectively. Thus, the roof slope on a building will have to begin at a lower height in the least dense CRN zone, increasing from CRN to CRT to CR.
- Public use space has been modified to ensure a more appropriate amount of open space based on lot size. Thus, for standard method development, small lots have no requirement, medium lots have a 10% requirement, and large lots have a 10% requirement based on the limits of disturbance for each site plan rather than for the entire tract at once. Optional method development remains unchanged.

- Residential amenity space has been modified to address changes in workforce housing laws.

Changes to 15.8. Special Regulations for the Optional Method of Development.

- Sections have been organized under headings for clarity.
- Some public benefits were reorganized into different categories to reflect their impact and experience with sketch plan reviews.
- Significantly, to incorporate the CRT zones, it was much easier to change the percent system to a point system. This has no impact on the CR zones – 100% simply converts to 100 points. The CRT zones are proposed to require public benefits worth 50 points, reflecting their intended use in areas with less density and more challenging economic conditions.
- BLTs are still required in the CR zones for the first 5% of incentive density; no BLTs are required for the CRT or CRN zones.
- The current CR Zones permit an application to obtain no more than 30% of its incentive density from any one public benefit category. To simplify this system while still ensuring a diversity of public benefits, the ZTA would require each applicant to propose public benefits from at least 4 of the 6 categories. This is a much easier system to calculate and implement for both applicants and Planning Board staff.
- Generally, redundancies were removed and language was modified for clarity and focus.
- Significantly, the “major master plan facility” category has been modified to allow the Planning Board to grant incentive density for land, construction or financing of a major facility that has not been recommended in a master plan, but that the Board finds is similar to and will provide at least as valuable a benefit as the type of facility that master plans typically recommend. Some community members strongly objected to this provision, arguing that incentive density should be reserved for master-planned public facilities. Nonetheless, the entire Planning Board considered it important to allow for flexibility, given the long shelf lives of many of our master plans and the desirability of being able to provide public facilities and infrastructure improvements that benefit the community as a whole, beyond what is required during a regular review and approval.
- Several public benefits were added that are specifically tailored to smaller towns with lower densities, smaller lots and fragmented ownership patterns.

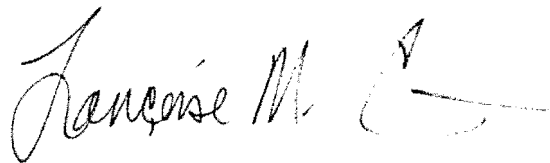
Changes to 15.9. Existing Approvals

- Section (a) of the existing approvals was clarified to ensure that uses are grandfathered, as well as structures; further, buildings and structures that are deemed conforming may convert to any permitted use up to the density limits established by the zone.

- Clarifications were added for development plans and special exception approvals that were granted prior to application of the CR zones to the subject sites.
- The Planning Board debated at some length a proposal from a property owner that any applicant with an approved sketch plan be permitted to proceed with the entire development under the current CR zones. A four-member majority of the Board rejected the proposal on the basis that the administrative costs of tracking the three existing sketch plan approvals through a separate set of rules would be too burdensome, given the minor changes that are proposed to the basic structure of the CR zones, which will ensure that all existing sketch plan approvals will remain in conformance with the zone if these amendments are passed. One Planning Board member argued that applicants should be able to rely on the law that was in effect when they submitted their sketch plan, but the majority felt strongly that sketch plan is too early in the process to warrant grandfathering, particularly in view of the minor impacts that the proposed changes will have on existing sketch plans. Finally, there is no precedent in, for example, the CBD zones for grandfathering approved project plans when text amendments are applied to the CBD zone between project plan approval and site plan approval. The flexibility of the zone and the ability to make modifications at site plan ensure adequate predictability for applicants and staff.

We look forward to assisting the Council in its deliberations on the enclosed ZTA.

Sincerely,

A handwritten signature in black ink, appearing to read "Françoise M. Carrier". The signature is fluid and cursive, with a long horizontal stroke at the end.

Françoise M. Carrier
Chair

Enclosures

cc: Montgomery County Planning Board
Rollin Stanley